

## **REMARKS**

### **In the Information Disclosure Statement:**

The Examiner stated that the Information Disclosure Statement filed on September 9, 2002 failed to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of the non-English publications. Also, the Examiner stated that S/N 514224/97 was missing. Applicant is submitting a new Information Disclosure Statement with this Amendment. The new Information Disclosure Statement now includes an explanation of the relevance of the art cited, as well as a copy of the missing reference.

### **In the Specification:**

The Examiner objected to the specification as failing to provide clear support for the claim terminology. More specifically, the Examiner stated that the terms “attachment means for biasing the first and second bracket halves” in Claim 30, “attachment means for securing the first and second bracket halves” in Claim 31, and “means for biasing the first and second bracket halves” in Claim 33 do not appear in the specification.

Applicant has amended Claims 30, 31 and 33. Applicant believes that these amendments provide the claims with terms and phrases that have clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. As a result, Applicant respectfully requests that the Examiner withdraw the objections to the specification.

**In the Claims:**

**35 U.S.C. § 112**

The Examiner rejected Claims 28-33 under 35 U.S.C. § 112. second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner rejected claims 30, 31, and 33 for the same reasons as discussed for the Specification. As stated above, Applicant has amended Claims 30, 31, and 33. Applicant believes that the claims clearly point out and distinctly claim the subject matter of the invention. Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112 rejections of Claims 30, 31, and 33.

Additionally, the Examiner stated the term “the electromechanical flexible enclosure” lacked clear antecedent basis, and therefore rejected Claim 28. Applicant has amended Claim 28 to cure any antecedent issue. As a result, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112 rejection of Claim 28.

**35 U.S.C. § 102**

The Examiner has rejected Claims 28-33 as being anticipated by Muderlak et al. (WO 97/13086). The Examiner states that Figures 10 and 11 of the present application and Figures 6 and 7 of the reference are substantially similar with no modifications relevant to Claims 28-33. Additionally, the Examiner stated that claims 16-21 of WO 97/13086 are nearly identical to Claims 28-33 of the present application. Therefore, the Examiner states that Muderlak et al anticipates the broadest reasonable interpretation of “flexible” actuator.

Applicant has amended Claims 28 and 31. Applicant believes that amended Claims 28 and 31 are allowable. As Claims 28 and 31 are allowable, Applicant further believes dependant

Claims 29, 30, 32 and 33 are also allowable. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of Claims 28-33 under 35 U.S.C. § 102.

### **35 U.S.C. § 103**

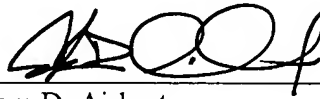
Finally, the Examiner rejected Claims 28-33 under 35 U.S.C. § 103 as being unpatentable over Muderlak et al. (WO 97/13086) in view of Bush (U.S. Pat. No. 3,680,406). The Examiner stated that if the “interpretation of ‘flexible actuator’ is used to include a flexible cam,” and that Muderlak et al. does not disclose this. The Examiner then states that Bush teaches a means for correcting the contour of a cam without reshaping or discarding the original cam. The Examiner concluded that it would have been obvious to one having ordinary skill in the art at the time the invention was made use the flexible cam with the apparatus of Muderlak.

As previously indicated, Claims 28-33 have been amended. Neither Muderlak et al. nor Bush discloses the invention claimed in Claims 28-33. Independent Claims 28 and 31 both contain the element of “an electromechanical actuator mounted on a movable plate, within an enclosure, operably engaging the flush lever.” None of the art cited in the Office Action discloses an actuator mounted on a movable plate. As a result, Applicant submit that Claims 28 and 31 are patentable over the cited art. Similarly Claims 29-30 and 31-33 are patentable because they are dependent on Claims 28 and 31 respectively. Applicants respectfully request that the Examiner withdraw the rejections of Claims 28-33.

### SUMMARY

Pending Claims 28-33 as amended are patentable. Applicant respectfully requests the Examiner grant allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Airhart', is written over a horizontal line.

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